

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HEATHER OPEL,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,
JANE PARNELL, NORM CALDWELL,
GINA ROSENDALE, ALEXIS
STROMBERG, CORRECTIONAL
OFFICERS J LABOON, J TROUDT,
COOPER, SERGEANT LARRY
BELFOR

Defendants.

No. C14-5160 RBL-KLS

ORDER GRANTING DEFENDANTS'
MOTION TO STAY DISCOVERY
AND PLAINTIFF'S MOTION FOR
ADDITIONAL TIME

This matter has been referred to Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1), Local Rules MJR 3 and 4. Defendants ask for a stay of discovery while their motion to dismiss is pending. Dkt. 20. Dkt. 20 contains both the motion to dismiss and the motion to stay discovery. Ms. Opel asks for additional time to respond to defendants' motions. Dkt. 22. Defendants responded to Ms. Opel's motion for additional time and do not oppose the motion. Dkt. 23.

Defendants have raised the affirmative defense of qualified immunity in the motion to dismiss. Dkt. 20, p. 4. Qualified immunity is "an affirmative defense that must be pleaded by a defendant official." *Harlow*, 457 U.S. at 815 (*citing Gomez v. Toledo*, 446 U.S. 635 (1980)). The immunity is "*immunity from suit* rather than a mere

1 defense to liability.” *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985)(italic in original).
2 “Until this threshold immunity question is resolved, discovery should not be allowed.”
3 *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). The undersigned notes that the motion
4 to dismiss raises legal arguments and not factual disputes and Ms. Opel should not need
5 discovery to address defendants’ motion to dismiss. Given the Supreme Court precedent
6 on the issue of discovery when qualified immunity is pending, the undersigned GRANTS
7 defendants’ motion to stay discovery.
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10 Ms. Opel asks for additional time to respond to the motion to dismiss and
11 defendants do not oppose her request. Dkt. 22 and 23. The undersigned GRANTS
12 plaintiff’s unopposed motion for additional time.

13 The Clerk’s Office is directed to remove defendants’ motion to dismiss (Dkt. 20)
14 from the June 13, 2014 calendar and re-note the motion for August 15, 2014. This gives
15 Ms. Opel until August 8, 2014 to file her response to defendants’ motion and defendants
16 a week to file a reply.
17

18 **DATED** this 24th day of June, 2014.
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22 Karen L. Strombom
23 United States Magistrate Judge
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